Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at http://about.jstor.org/participate-jstor/individuals/early-journal-content.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

RECENT CASES.

CARRIERS OF GOODS—LOSS THROUGH ACT OF GOD—PREVIOUS NEGLIGENCE.—EMPIRE STATE CATTLE CO. v. ATCHINSON, T. & S. F. RY. CO., 135 FED. 136. Property was negligently delayed in transportation. But for this delay it would not have been subjected to a subsequent danger in which it was totally destroyed, which danger was occasioned by an act of God, reasonably unforseen.—*Held*, that the negligent delay was not the proximate cause of the injury.

The negligence must be the proximate cause of the loss. *Scott v. Baltimore, C. & R. S. Co.*, 19 Fed. 56. The Federal courts have been constant in upholding this doctrine since the Supreme Court first laid it down in *Ry. Co. v. Reeves*, 77 U. S. 176 (1869). See also *Lamont v. Nashville & C. R. Co.*, 56 Tenn. 58; *Hoadley v. Northern Transp. Co.*, 115 Mass. 304. Other courts, for reasons which seem very plausible, have failed to agree with the above. *Michaels v. N. Y. Central Ry. Co.*, 30 N. Y. 564; *Meyer v. Vicksburg, R. Co.*, 41 La. Ann. 639. Especially do the courts so hold where the delay amounts to a violation of contract. *Cassiday v. Young*, 43 Ky. 265; *Denison v. N. Y. Central Ry. Co.*, 3 Lans. 265. And where the delay was caused by carrying the goods out of the usual and direct route. *Merchants Despatch Co. v. Kahn*, 76 Ill. 520. The Federal courts have sustained their position where the destruction resulted during the continuance of the negligent delay. *Thomas v. Lancaster Mills*, 71 Fed. 481. The contrary is held in *Hernsheim v. Newport News Co.*, 35 S. W. 1115; *Meyer v. Vicksburg, etc., R. Co., supra.*

CARRIERS OF PASSENGERS—INTERSTATE COMMERCE—WHAT CONSTITUTES.—STATE v. SEAGRAVES, 85 S. W. (Mo.). 925.—*Held*, that carrying passengers on a steamboat is not interstate commerce, although the boat may touch the shores of different states.

Where the real destination of stock was a yard across the boundary of the state, it was held that its carriage did not constitute interstate commerce. *Moore v. Moore*, 41 Mo. App. 176; *Scammon v. Ry. Co.*, 41 Mo. App. 194. It has been held that goods whose points of departure and destination are in the same state, though passing through an adjoining state in their transit, are not in interstate commerce, *Seawall v. Ry. Co.*, 119 Mo. 222; but this resulted from a misunderstanding of *Lehigh Valley R. Co. v. Penn.*, 145 U. S. 192, and is now settled *contra*. *Hanley v. Ry. Co.*, 187 U. S. 617. And where commerce is carried by way of the high seas, though from one port in a state to another in the same state, it is under federal control. *Lord v. S. S. Co.*, 102 U. S. 541. But see *N. O. Exch. v. Ry. Co.*, 2 Int. Com. R. 375; *State v. Ry. Co.*, 41 N. W. (Minn.) 1047.

CONSTITUTIONAL LAW—POLICE POWER—EXTRA BURDENS ON MERCHANTS USING TRADING STAMPS.—MONTGOMERY v. KELLY, 38 So. 67 (ALA.).—A city ordinance required merchants giving trading stamps to pay a license in addition to that required of other merchants engaged in the same line of business, but not giving trading stamps. *Held*, that the ordinance was an attempt, under the guise of a license tax, to fix a penalty on a merchant for conducting his business in a certain way, and was therefore unconstitutional under the "life, liberty and pursuit of happiness" clause, and also under the clause "to protect the citizen in the enjoyment of life, liberty and property."

This case is unique as are most of the cases under this rapidly growing subject. The police power embraces the protection of the lives, health and property of the citizens, the maintenance of the good order and quiet of the community, and the preservation of the public morals. *Beer Co. v. Mass.*, 97 U. S. 25; *Thorpe v. R. Co.*, 27 Vt. 149. Of course it must be used as a police power and not as a pretext to avoid unconstitutionality. *R. Co. v. Hoboken*, 41 N. J. L. 71; *Mayor v. R. Co.*, 32 N. Y. 261. As to what does not lie in the police power, it is easier to distinguish the separate cases as they arise than to formulate a general rule. For example, a grant to registered pharmacists of the right to sell patent or proprietary medicines, without requiring them to make any inspection or examination of the same, but denying such right to other persons or firms, is unconstitutional. *Noel v. People*, 188 Ill. 587.

CORPORATIONS—MUNICIPAL—DEFECTIVE SIDEWALK—CONSTRUCTIVE NOTICE. —CITY OF OTTAWA v. HAYNE, 73 N. E. 384 (ILL.).—*Held*, that in an action against a city for injuries caused by an obstructed sidewalk, plaintiff may show by a watchman employed by private persons that the obstruction was observed by him, in order to prove constructive notice to the city.

The acts and declarations of private persons as to the unsafe condition of a sidewalk are admissible to show notoriety. *Chase v. Lowell*, 151 Mass. 422; *McGrail v. Kalamazoo*, 94 Mich. 52. But in *Hinckley v. Somerset*, 145 Mass. 326, it is held that a conversation between a person previously injured at the same place and others, not officers of the town, is inadmissible. In showing constructive notice of defect, the distance from the city hall may be proved. *Masten v. Troy*, 50 Hun 485. The fact that no repairs have been made on the walk for a long time is also competent evidence on this point. *Alberts v. Vernon*, 96 Mich. 549. It must appear, however, that the city had reason to anticipate the defect. *Stellwagen v. Winona*, 54 Minn. 460; *Lincoln v. Pirner*, 59 Neb. 634. A municipality may be charged with constructive notice even though the fact of the defect has not become notorious. *Pomfrey v. Saratoga Springs*, 104 N. Y. 459; *Anderson v. Albion*, 64 Neb. 280.

CORPORATIONS—MUNICIPAL—EXCAVATIONS OF STREETS—LATERAL SUPPORT. —DAMKOEHLER v. MILWAUKEE, 101 N. W. 706 (WIS.).—*Held*, that where a city negligently excavates a street so as to take away the lateral support of an adjoining lot, thereby causing the soil to fall in, it is liable to the owner of the lot for such injury.

It has been held that there is no liability on the part of a city for taking away lateral support so as to injure an abutting owner, for it is not a taking of private property for public use. *Rome v. Omberg*, 28 Ga. 46. Other cases hold that a city is liable to the same extent as an individual. *Stearnes v. Richmond*, 88 Va. 992; *Nichols v. Duluth*, 40 Minn. 389. The true rule seems to be that the city is not liable when it makes the excavations with ordinary skill and care. *Quincy v. Jones*, 76 Ill. 231; but is liable if it takes away the support negligently, thereby causing an injury to the adjoining owner, *Parke v. Seattle*, 5 Wash. 1; the test of the city's liability being the manner in which it does the work. *Wright v. Wilmington*, 92 N. C. 156.

CORPORATIONS—PRIVATE—AGREEMENT TO SUBSCRIBE FOR STOCK.—WOODS MOTOR VEHICLE CO. v. BRADY, 73 N. E. 674 (N. Y.).—The defendant subscribed to the stock of a corporation to be organized to "deal" in automobiles. A corporation was subsequently organized for the purpose of